

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF OHIO  
EASTERN DIVISION

Francois Abessolo,

Petitioner,

v.

Case NO. 2:14-cv-2168

Todd Smith, et al.,

Respondents.

ORDER

Petitioner filed the instant habeas corpus petition pursuant to 42 U.S.C. §2241, alleging that he was wrongfully detained and subjected to physical assault by Immigration and Customs Enforcement ("ICE") agents. Respondents filed motions to dismiss, arguing that this court no longer has jurisdiction over the habeas petition because petitioner has been removed from the United States and is now in Cameroon. In a report and recommendation filed on June 8, 2015, the magistrate judge recommended that the habeas corpus claim be dismissed due to lack of jurisdiction. The magistrate judge further recommended that insofar as the petition asserts a claim under *Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics*, 403 U.S. 388 (1971) against ICE Agent Todd Smith, the only federal agent named in the petition, the motions to dismiss should be denied, and that claim should be permitted to proceed. The magistrate judge directed the clerk to provide petitioner with appropriate service forms, and ordered that petitioner must return the completed forms to the clerk of courts within thirty days.

The report and recommendation specifically advised the parties that objections to the report and recommendation were due within

fourteen days, and that the failure to object to the report and recommendation "will result in a waiver of the right to have the district judge review the *Report and Recommendation de novo*, and also operates as a waiver of the right to appeal the decision of the District Court adopting the *Report and Recommendation*." Doc. 14, p. 5. The time period for filing objections to the report and recommendation has expired, and no objections to the report and recommendation have been filed.

Accordingly, the court adopts the report and recommendation (Doc. 14). The motions to dismiss (Docs. 6 and 11) are granted in part and denied in part. The habeas claim is dismissed, and the *Bivens* claim will be allowed to proceed. Petitioner is directed to provide the documents necessary to permit the United States Marshals Service to effect service of process on Agent Smith by certified mail, and to return the service forms to the office of the clerk of court as ordered by the magistrate judge.

Date: June 26, 2015

s/James L. Graham  
James L. Graham  
United States District Judge